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February 9, 2005

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Mail Stop Amendment

Re: U.S. Utility Patent Application
Appl. No. 10/622,088; Filed: July 18, 2003
For: **Viral Vectors Containing Recombination Sites**
Inventors: Bennett *et al.*
Our Ref: 0942.5450007/RWE/BJD/SJE

Sir:

Transmitted herewith for appropriate action are the following documents:

1. Third Supplemental Information Disclosure Statement;
2. Form PTO-1449 (2 sheets citing 15 documents);
3. 4 documents cited in Form PTO-1449 (attached); and
4. One (1) return postcard.

It is respectfully requested that the attached postcard be stamped with the date of filing of these documents, and that it be returned to our courier. In the event that extensions of time are necessary to prevent abandonment of this patent application, then such extensions of time are hereby petitioned.

The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

Brian J. Del Buono
Attorney for Applicants
Registration No. 42,473

BJD/SJE/lam
Enclosures

362241.1



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Bennett *et al.*

Appl. No.: 10/622,088

Filed: July 18, 2003

For: **Viral Vectors Containing
Recombination Sites**

Confirmation No.: 1853

Art Unit: 1653

Examiner: Brown, Timothy M.

Atty. Docket: 0942.5450007/RWE/BJD/SJE

Third Supplemental Information Disclosure Statement

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Listed on accompanying Form PTO-1449 are documents that may be considered material to the examination of this application, in compliance with the duty of disclosure requirements of 37 C.F.R. §§ 1.56, 1.97 and 1.98.

The numbering on this Third Supplemental Information Disclosure Statement is a continuation of the numbering in Applicants' Second Supplemental Information Disclosure Statement filed January 26, 2005, in connection with the above-captioned application.

Copies of documents **AF17-AK17** and **AA18-AE18** are not provided in accordance with the Changes To Support Implementation of the United States Patent and Trademark Office 21st Century Strategic Plan, effective October 21, 2004, which states "section 1.98(a)(2)(i) is amended to eliminate the requirement in paragraph (a)(2)(i) for a copy of each U.S. patent or U.S. patent application publication listed in an IDS in a patent application regardless of the filing date of the application." A copy of each other document is provided.

In accordance with the recent Federal Circuit decision in *Dayco Prods., Inc. v. Total Containment, Inc.* 329 F.3d 1358 (Fed. Cir. 2003), Applicants submit herewith an Office Action from a related copending application as Document **AR203**. The identification of this Office Action is not to be construed as a waiver of secrecy as to the copending application. The Examiner is respectfully requested to consider the Office Action and any art cited therein during examination of the present application.

Where the publication date of a listed document does not provide a month of publication, the year of publication of the listed document is sufficiently earlier than the effective U.S. filing date and any foreign priority date so that the month of publication is not in issue. Applicants have listed

Bennett *et al.*
Appl. No. 10/622,088

publication dates on the attached Form PTO-1449 based on information presently available to the undersigned. However, the listed publication dates should not be construed as an admission that the information was actually published on the date indicated.

Applicants reserve the right to establish the patentability of the claimed invention over any of the information provided herewith, and/or to prove that this information may not be prior art, and/or to prove that this information may not be enabling for the teachings purportedly offered.

This statement should not be construed as a representation that a search has been made, or that information more material to the examination of the present patent application does not exist. The Examiner is specifically requested not to rely solely on the material submitted herewith.

This Third Supplemental Information Disclosure Statement is being filed before the mailing date of a first Office Action on the merits. No statement or fee is required.

It is respectfully requested that the Examiner initial and return a copy of the enclosed Form PTO-1449, and indicate in the official file wrapper of this patent application that the documents have been considered.

The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.


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FORM PTO-1449 THIRD SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT <i>Patent & Trademark Office</i>		O P E R A T I O N S C O M M I T T E E		ATTY. DOCKET NO. 10942.5450007/RWE/BJD/SJE	APPLICATION NO. 10/622,088		
		FEB 09 2005		APPLICANT(S) Bennett <i>et al.</i>			
		FILING DATE July 18, 2003		ART UNIT 1653			
U.S. PATENT DOCUMENTS							
EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS	SUB-CLASS	FILING DATE
	AA						
	AB						
	AC						
	AD						
	AE						
	AF17	6,040,138	03/21/2000	Lockhart <i>et al.</i>			09/15/1995
	AG17	6,303,301	10/16/2001	Mack			05/29/1998
	AH17	6,309,822	10/30/2001	Fodor <i>et al.</i>			12/23/1996
	AI17	6,333,155	12/25/2001	Lockhart <i>et al.</i>			12/18/1998
	AJ17	6,544,790	04/08/2003	Sabatini			09/18/2000
	AK17	2002/0162126	10/31/2002	Beach <i>et al.</i>			05/24/2001
FOREIGN PATENT DOCUMENTS							
EXAMINER INITIAL		DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUB-CLASS	TRANSLATION
	AL						Yes No
	AM15	WO 01/68836	09/20/2001	WIPO			Yes No
	AN						Yes No
	AO						Yes No
	AP						Yes No
OTHER (Including Author, Title, Date, Pertinent Pages, etc.)							
	AR						
	AS						
	AT	202	Baum, J.A., "Tn5401, a New Class II Transposable Element From <i>Bacillus thuringiensis</i> ," <i>J. Bacteriol.</i> 176:2835-2845, American Society for Microbiology (1994)				
EXAMINER					DATE CONSIDERED		
EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to Applicant.							

FORM PTO-1449

FEB 09 2005

THIRD SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

ATTY. DOCKET NO.
0942.5450007/RWE/BJD/SJEAPPLICATION NO.
10/622,088APPLICANT(S)
Bennett *et al.*FILING DATE
July 18, 2003ART UNIT
1653

U.S. PATENT DOCUMENTS

EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS	SUB-CLASS	FILING DATE
	AA18	2003/0135888	07/17/2003	Zhu <i>et al.</i>			09/26/2002
	AB18	2003/0175772	09/18/2003	Wang			12/26/2002
	AC18	2004/0229229	11/18/2004	Cheo <i>et al.</i>			08/14/2003
	AD18	2004/0265863	12/30/2004	Chesnut <i>et al.</i>			03/04/2004
	AE18	2005/0009091	01/13/2005	Hartley <i>et al.</i>			08/19/2004
	AF						
	AG						
	AH						
	AI						
	AJ						
	AK						

FOREIGN PATENT DOCUMENTS

EXAMINER INITIAL		DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUB-CLASS	TRANSLATION
	AL						Yes No
	AM						Yes No
	AN						Yes No
	AO						Yes No
	AP						Yes No

OTHER (Including Author, Title, Date, Pertinent Pages, etc.)

AR	<u>203</u>	Office Action for U.S. Patent Application No. 10/796,868, mailed on January 25, 2005
AS	<u>203</u>	Short, J.M. <i>et al.</i> , "ZAP: a bacteriophage expression vector with <i>in vivo</i> excision properties," <i>Nucleic Acids Research</i> 16:7583-7600, IRL Press Limited (1988)
AT		

EXAMINER

DATE CONSIDERED

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to Applicant.